REMARKS

Claims 22 to 32 are added, and therefore claims 9 to 16, 20, and 21 to 32 are pending in the present application.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 9 to 16, 20 and 21 were rejected under 35 U.S.C. § 102 as anticipated by PCT Published International Patent Application No. WO 96/39632 ("Martin").

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Final Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

While the rejections may not be agreed with, to facilitate matters, the claims (except dependent claim 12) have been rewritten to better clarify the claimed subject matter.

Claim 9,as presented, is to a micromechanical component *for a sensor* having a body having a first substrate and a second substrate that form hollow space and a region of porous silicon located contiguously thereto, in which the region of porous silicon is provided

for lowering a pressure prevailing in the hollow space, *in that a gas is bound to the porous silicon.*

It is respectfully submitted that the Martin reference does not identically disclose (or even suggest) a micromechanical component for a sensor in which a region of porous silicon is provided for lowering a pressure prevailing in a contiguously located hollow space by *binding a gas to the porous silicon*, as provided for in the context of claim 9, as presented. Instead, Martin at most refers to a *package for sealing an integrated circuit die* (*and not a micromechanical component for a sensor*) using porous silicon structures only to *absorb moisture*. In particular, Martin specifically states that "[p]orous silicon structures have oxide surfaces that absorb moisture", and "[t]hus porous silicon etched into the internal surface of the cap will gather any moisture which may diffuse through the adhesive seal." While the Final Office Action emptily asserts that "if the prior art structure is capable of performing the intended use, then it meets the claim", there has been no assertion that the region of porous silicon of Martin can bind gases--as opposed to merely absorbing moisture.

Accordingly, for at least these reasons, it is respectfully submitted that the Martin reference does not anticipate claim 9, as presented, so that claim 9 is allowable.

Claims 10 to 13 and 20 depend from claim 9, and are therefore allowable for at least the same reasons as claim 9.

Claims 14 to 16, as presented, include features like those of claim 9, and are therefore allowable for essentially the same reasons as claim 9, as presented.

Claim 21 depends from claim 14, as presented, and is therefore is allowable for the same reasons as claim 14.

Withdrawal of the anticipation rejections is therefore respectfully requested.

New claims 22 to 32 do not add any new matter and are supported by the present application, including the specification. Claim 22 includes features like those of claim 9, as presented, and is therefore allowable for essentially the same reasons, as are its dependent claims 23 to 29.

Claims 30 to 32 depend from claim 9, as presented, , and are therefore allowable for essentially the same reasons. Still further, claim 30 provides that the porous silicon is used to provide a large surface area to provide effective getter characteristics, and is therefore allowable for this further reason, since this is not disclosed by the applied reference. Claim 31 provides that the porous silicon is used to provide a large surface area of up to over 1000 m^2 per cm^3 to provide effective getter characteristics, and is therefore allowable for this

further reason, since this is not disclosed by the applied reference. Claim 32 further provides the silicon is used to eliminate the need for heating the component to high temperatures to activate getter characteristics of the porous silicon, and is therefore allowable for this further reason, since this is not disclosed by the applied reference.

In sum, claims 9 to 16, 20 to 32 are allowable for at least the above reasons.

Conclusion

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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